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09/518,328 03/03/20		03/03/2000	John J Burns	33012/284/101	6224	
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UNISYS C	ORPORA	ATION	CRAIG, DWIN M			
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary Examiner Dwin M Craig 2123 -The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extension of time may be available under the provision of 37 CFR 1.135(b). In or event, however, may a reply te fixely filed dies SK (ip MONTH'S from the registed above, the maximum statistic provision of 37 CFR 1.135(b). In or event, however, may a reply te fixely filed dies SK (ip MONTH'S from the registed above, the maximum statistic priority and subject on the construction. False to review with the feet or event above the maximum statistic priority and event with the receivable above the maximum statistic priority and event with statistic minimum of the making date of the communication. False to review the feet of the communication appears and the making administration and the communication. False to review the feet of the communication and the communication and priority and the making administration and priority and the making administration and the communication. False to review the maximum statistic priority and the making administration and priority free may restore any states and priority and the communication. False to review the maximum states and the making administration and the communication. False to review the maximum states and the communication and the communication. False to review the maximum states and the communication and the communication. The Responsive to communication (s) filed on 30 April 2004. This action is FINAL. 2b) This action is non-final. This action is FINAL. 2b) This action is non-final. 4) Claim(s) 1-25 is/are pending in the application. 4) Claim(s) 1-25 is/are pending in the application. 4) Claim(s) 1-3, 6.7, 9-12 and 15-24 is/are rejected. 7) Claim(s) 1-3, 6.7, 9-12 and 15-24 is/are rejected. 7) Claim(s) 1-3, 6.7, 9-12 and 15-24 is/are rejected. 7) Claim(s) 1-3, 6.7, 9-12 and										
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DETAILED ACTION

1. Claims 1-20 have been presented for reconsideration in view of Applicant's amended specification and arguments. Claims 21-25 have been presented for Examination.

Response to Arguments

- 2. Applicants arguments filed on 4-30-2004 have been fully considered. Examiners response is as follows:
 - 2.1 Regarding the Applicant's response to the objection to the drawings.

Applicant argued:

The Examiner has objected to the drawings. Specifically, the Examiner has found that Figs. 1-3 contain only prior art under MPEP 608.02(g). Applicants disagree with the Examiner's findings and have previously provided their reasoning in this regard. Nevertheless the Examiner has continued his objection. Therefore, in furthering the prosecution of this application and under protest, Applicants have herewith provided the amended drawings as required by the Examiner.

The Examiner thanks the Applicant for amending the drawings and withdraws the earlier objections.

2.2 Regarding the amendments to the specification.

Applicant argued:

The Examiner has further objected to various amendments made to the specification. Applicants disagree with the Examiner's findings in support of this objection. For example, Applicants do not understand how the deletion of the words typical legacy'' from page line and the deletion of the word legacy'' from page 7, line could possibly constitute introduction of new matter as defined by 35 U.S.C. 132. Nevertheless, to further advance the prosecution of this application, Applicants have here with restored the original material in accordance with the Examiner's objection.

The Examiner thanks the Applicant for the amendments to the specification and withdraws the earlier objections.

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2.3 Regarding the Applicant's response to the 35 U.S.C. 103(a) rejections of claims 1, 2, 6, 7, 11 and 16.

Applicant argued (from page 10 of the 4/30/2004 response).

In short, Hoang emulates hardware with software, whereas Mitchell emulates hardware with hardware and only controls the emulation with software. Thus, the rejection is respectfully traversed, because the alleged combination is clearly not motivated.

The Examiner has found the Applicant's arguments to be persuasive and withdraws the 35 U.S.C. 103(a) rejections of Claims 1, 2, 6, 7, 11 and 16.

2.4 Regarding the Applicant's response to the 35 U.S.C. 103(a) rejections of claim
16.

Applicant argued: (from page 11 of the 4/30/2004 response).

Though the scope of claim 6 is different from the scope of either claim 1 or claim 11, this lack of examination is particularly noticeable with regard to claim 16, which is an apparatus claim having ''means-plus-function'' limitations. The Examiner is required to examine claim in accordance with MPEP 2181, et seq. It is apparent that this has not been done. The rejection is respectfully traversed as improper in accordance with controlling law.

The Examiner thanks the Applicant for invoking the 112 6th paragraph means-plusfunction language in the claim, wherein structural support is now drawn from the specification to
support the claim, *however*, it is unclear from the Applicant's arguments and the current claim
language exactly *what function* the "*means for*" language is invoking or where in the
specification the Applicant is drawing structural support.

2.5 In view of the updated search and Applicant's arguments, the Examiner withdraws the earlier 35 U.S.C. 103(a) rejections of Claims 1-20. An updated search has revealed new art.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 3. Claims 16-20 are rejected under 35 U.S.C. 112 2nd paragraph.
- 3.1 Regarding claim 16, the word "means" is preceded by the word(s) "comprising" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).
- 3.2 It is unclear to the examiner exactly what type of means are being claimed in independent Claim 16, specifically, the means having a first software architecture, it is unclear to the Examiner exactly which emulation means the claim language is referring to, and it is unclear to the Examiner exactly where in the specification the structural support for the emulation means is located. Further, where the Applicant claims, means responsively coupled to said executing means for, again it is unclear to the Examiner exactly where the structural support for the responsively coupled means is located. Clarification and amendment are required.
 - 3.3 Dependent Claims 17-20 inherent the flaws of Independent Claim 16.
- 3.4 Dependent Claims 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner exactly what the "meets and bounds" of the claimed limitation "short sequence(s) of instructions" is supposed to be. Amendment and Clarification are required.

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Claim Interpretation

4. The Applicants claim language has been given the broadest reasonable interpretation by the Examiner. For purposes of Examination the Examiner has interpreted the "short sequence(s) of instructions" to mean a sequence of instructions that is less than 500 instructions in length.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. Independent Claims 1, 6, 11 and 21 and Dependent Claims 2, 3, 7, 9, 10, 12, 15, 22, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Goettelmann et al. U.S. Patent 5,313,614.
- 5.1 As regards independent Claims 1, 6 and 11 the Goettelmann et al. reference teaches,

In a data processing system having a first processor with a first architecture

(Figure 1), the improvement comprising:

A plurality of emulation objects each executable by said first processor (Figure 4, Col. 7 Lines 39-45 this figure illustrates the different address space layout for the emulated target machine, the "image" of the source machine address space is functionally equivalent to an emulation object Col. 13 Lines 4-10, and again in Figure 23 is

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illustrated "code modules" which are functionally equivalent to "emulation objects" Col.

30 Lines 5-16), wherein each of said emulation objects emulates operation of a different one of a plurality of target processors (The Goettelmann et al. reference discloses a plurality (two) different target processors Col. 31 Lines 14-24), wherein each of said plurality of target processors has a software architecture different from said first software architecture (The Goettelmann et al. reference teaches different software architectures Figure 2 Items 2333 & 2334 vs. Items 2335 & 2336 and Figure 3 Item 3336 "TRANSLATED SOURCE MACHINE SYSTEM SOFTWARE" the Translated Application is being translated from one software architecture to another software architecture).

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teaches an Apparatus (Figure 1), a first instruction processor which executes a first sequence of instructions in accordance with a first software architecture (Figure 2 Item 211 is a processor, Figure 11 discloses a section of assembly code "SOURCE MACHINE CODE"), a second sequence of instructions in accordance with a second software architecture which is incompatible with the first software architecture (Figure 11 discloses a section labeled "TRANSLATED CODE"), a plurality of emulation objects wherein a first of said plurality of emulation objects corresponds to said second software architecture (Figure 5 Item 53 is a hardware or software emulator and Col. 31 Lines 14-22 discloses a "plurality" of emulation objects. Figure 11 shows that the "Translated Code" is for the "second software architecture"), a plurality of short sequences of instructions in accordance with said first software architecture located

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within said first of said plurality of emulation objects wherein one of said second

sequence of instructions corresponds to one of said plurality of short sequences of

instructions and a selection facility which selects said one of said plurality of short

sequences instructions for presentation to said first instruction processor for execution

(Figure 11).

- 5.3 As regards dependent Claims 2 and 7 the Goettelmann et al. reference teaches compatibility with the first software architecture (Figure 2 Items 2335 & 2336 disclose the "SOURCE MACHINE APPLICATION").
- 5.4 As regards dependent Claims 3, 9, 10 and 15 the Goettelmann et al. reference discloses an "array" the Examiner asserts that a tree structure is functionally equivalent to an "array" (Figure 20), and a list of instructions compatible with a second software architecture (Figure 11 "TRANSLATED CODE" list).
- 5.5 As regards dependent Claim 22 the Goettelmann et al. reference teaches short sequences of instructions (Figure 11 "TRANSLATED CODE").
- 5.6 As regards dependent Claim 12 the Goettelmann et al. reference teaches a plurality of target processors to be emulated (Col. 31 Lines 14-22).
- 5.7 As regards dependent Claim 23 the Goettelmann et al. reference teaches "opcodes" (Figure 11).

Allowable Subject Matter

6. Dependent Claims 4, 5, 8, 13, 14 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Independent Claims 1, 6, 11, 16 and 21 and Dependent Claims 2, 3, 7, 9, 10, 12, 15, 17-20, 22, 23, and 24 are rejected. Dependent Claims 4, 5, 8, 13, 14 and 25 are objected to.

- 7.1 This action is **NON-FINAL**.
- 7.2 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwin M Craig whose telephone number is (571) 272-3710. The examiner can normally be reached on 10:00 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on (571)272-3716. The fax phone number for the organization where this application or proceeding is assigned is 703-308-1936.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC